

**IDAHO REAL ESTATE COMMISSION**  
**MEETING MINUTES**  
June 26, 2008

Pursuant to notice given, the meeting of the Idaho Real Estate Commission (Commission) was held at The Idaho Real Estate Commission, on Thursday, June 26, 2008 at 8:30 a.m.

**Commission Members Present:**

Steve Kohntopp, Chair, Filer  
Andy Enrico, Vice Chair, Boise  
Kelly Fisher, Member, Pocatello  
Pam Trees, Member, Lewiston  
*Comprising a quorum of the Commission*

**Members Absent:**

**Staff Present:**

Jeanne Jackson-Heim, Executive Director  
Craig Boyack, Chief Investigator  
Tammy Anderson, Administrative Assistant  
Neal Bernklau, Licensing Supervisor  
Charlie Hendrix, Management Assistant

**Others Present:**

Kim Coster, Commission Legal Counsel  
See attached list

Meeting was called to order at 8:30 a.m. by Commission Chair, Steve Kohntopp.

**Introductions:**

- a. Commissioners
- b. Staff

**Approval of Meeting Minutes:** Motion was made by Andy Enrico to approve the May 22, 2008 Commission meeting minutes. Motion carried.

**Approval of Agenda:** Motion was made by Andy Enrico to approve the June 26, 2008 agenda. Motion carried.

**Financial Reports:** Motion was made by Andy Enrico to approve the May 2008, Financial Reports. Motion carried.

**Salesperson and Broker Licenses Issued:** Members reviewed the salesperson and broker licenses issued during the month of May 2008, a copy of which has been made part of these minutes. Motion was made by Andy Enrico to approve the report. Motion carried.

**License Examination Statistics:**

Commissioners reviewed the license exam statistics report.

**Staff Reports:**

The following reports were presented for members' review; copies of which are on file at the Commission office:

- **Complaint Summary Report**
- **Audit Summary Report**
- **Enforcement Telephone Activity Log**
- **Education Funds Awards**
- **FY07-FY08 Analysis of Active & Inactive License Base**
- **On-Line Renewal Report**
- **Information and Technology Reports**

**Online Lottery Drawing:** Dennis White (SP26281), from; Coldwell Banker Schneidmiller Realty, Coeur d'Alene, won the lottery drawing for June 26, 2008.

**Commission's Counsel Report:**

- **Proposed Rule 402 (Temporary and Proposed Rule Change):** Kim advised members of approaching August deadline to submit proposed rulemaking. Jeanne Jackson-Heim presented changes to Rule 402, as recommended by the Council and commented upon by staff of the IAR. Discussion followed. A motion was made by Andy Enrico to proceed with rule-making procedures to adopt changes as outlined by Jeanne. Motion carried. A copy of the proposed changes is attached.

**Executive Director's Report:**

- **Posting Disciplinary Actions Online:** Jeanne Jackson-Heim presented staff's recommendations for posting disciplinary actions. Commissioners accepted these recommendations and directed Jeanne to draft a policy for posting disciplinary actions online for presentation at the July meeting. Members also directed that, once a policy has been approved it will be posted online as well as the disciplinary actions. Commissioners also directed Jeanne to inform IAR about plans for posting disciplinary actions.

- **Proposed 2008 IREC Strategic Plan:** Jeanne presented proposed 2008 Strategic Plan. She stated that all department heads met with her and she went over their recommendations. A motion was made by Andy Enrico to approve the Strategic Plan as presented. Motion carried.
- **FY 09 Management Budget:** Jeanne presented FY 09 Management Budget. Discussion Followed. A motion was made by Andy Enrico to approve the FY 09 Management Budget. Motion carried.
- **Education & Certification Policy:** Jeanne presented the proposed changes to the Education & Certification Policy with Commissioners. Jeanne explained that most of the changes are necessary to reflect the law changes going into effect July 1. Discussion followed. A motion was made by Andy Enrico to approve Education and Certification Policy as presented. Motion carried.

**Appointment of Education Council Member South Central District:** Commissioners reviewed applicants. A motion was made by Andy Enrico to re-appoint Beckie Kukal as Education Council Member for South Central District. Motion carried.

#### **Education Council and Director's Report:**

- **Module 1 & 2 Update:** Work group is working on final course exams, within a month or two both modules exams should be ready. Modules have already been piloted. Student guides still need to be created.
- **BCOO, Brokerage Management Update:** BSU finished Brokerage Management and BCOO course materials. Staff is not satisfied with either course and will be working to finish them. Because the BCOO and Brokerage Management materials were not satisfactory to IREC, BSU has cancelled the BCOO contract and all charges associated with it, but BSU submitted all materials to IREC. This was done as a compromise for unsatisfactory findings in product on both courses.
- **RFP Approval:** Jeanne explained the State purchasing process and stated that the contract expires in November. Two submissions were received for a new 4-year contract, Pearson Vue and AMP. Discussion followed. A motion was made by Kelly Fisher to authorize Jeanne Jackson-Heim to sign with Pearson Vue. Motion carried.
- **Library:** Jeanne reported the Education Council had discussed the lending library and had passed a motion recommending it be discontinued. A motion was made by Andy Enrico to eliminate the Library. Motion carried.

**Education Funds Awards and Petitions:** Commissioners reviewed current Funds Awards applications and the Education Council's recommendations. Commissioners then discussed the need to develop more comprehensive guidelines to decide future distribution of the Education Awards. A 60-day moratorium on awarding funds was suggested to enable IREC to create guidelines for awards. A motion was made by Kelly Fisher to have a 60-day moratorium on the granting of Education Funds Awards, and to request the Education Council develop a set of guidelines for consideration and approval by the Commission. Motion carried. After further discussion, a motion was made by Andy Enrico to deny all pending Education Award applications. Motion carried.

- Cindy Rhinevault, Land Education Foundation (Event/Speaker Offering).
- William Nelson (Current Course Enhancement).
- Gina M. Hurley, Selkirk Association of REALTORS®. (Underwrite Rookie REALTOR® course).
- Gina M. Hurley, Selkirk Association of REALTORS®. (Underwrite CORE classes).

**Enforcement:**

- **Voluntary License Surrender:** Motion made by Andy Enrico to ratify the Voluntary License Surrender received from Jennifer Lee Severance. Motion carried.

**Case of Staff vs. Sheldon Ropicky (Mitigation Hearing):** Hearing convened at 10:30 a.m. Mr. Boyack appeared on behalf of Staff and was represented by Mr. Naylor. Mr. Ropicky appeared in person and without counsel. The hearing proceeded and was tape recorded.

**Executive Session:** In accordance with section 67-2345 (1)(f) Idaho Code, a motion was made by Pam Trees to adjourn to executive session to discuss the mitigation hearing with the Commission's legal advisor. Motion carried.

**Regular Session:** There being no further purpose for an executive session, a motion was made by Steve Kohntopp to adjourn the executive session. Motion carried.

**Case of Staff vs. Sheldon Ropicky Following Mitigation Hearing):** In consideration of the facts and evidence presented, a motion was made by Andy Enrico to issue a Final Order approving the parties' Stipulation and imposing discipline as follows:

- 1.) That Sheldon Ropicky be issued a formal reprimand.
- 2.) That Sheldon Ropicky pay a civil fine in the amount of Three Thousand Five Hundred Dollars (\$3,500.00), which shall be due and payable as follows: An initial payment of Fifteen Hundred Dollars (1,500.00) must be made by August 8, 2008, and the remaining Two Thousand Dollar (2,000.00) balance must be paid in full on or before January 5, 2009. In the event that Mr. Ropicky fails to make the initial payment on the date or in the amount required by this order, then the entire civil fine amount shall at once become due and payable.
- 3.) That Sheldon Ropicky shall pay Costs and Attorney Fees incurred in this matter in the amount determined by the Commission after review of the Staff's Memorandum of Costs and Fees and any written objections thereto filed by Mr. Ropicky. An initial payment of One Thousand Dollars (1,000.00) of any costs and attorney fees amount determined by the Commission must be made on or before August 21, 2008; and any amount remaining must be paid in full on or before January 5, 2009. In the event that Mr. Ropicky fails to make the initial payment, in the amount or date required by this order, then the entire amount of costs and attorney fees determined by the Commission shall at once become due and payable.
- 4.) That Sheldon Ropicky's real estate license shall be SUSPENDED for a period of six (6) months, from July 6, 2008 through January 5, 2009; provided, however, that the suspension shall be WITHHELD in its entirety, upon the following terms and conditions.
  - a.) Within six (6) months of this Final Order, and prior to January 5, 2009 Mr. Ropicky shall successfully complete the following real estate classes:
    - i.) a live Agency Law course; and
    - ii.) a live Business Conduct and Office Operations course.

Mr. Ropicky shall notify the Commission of his timely completion of these courses.

- b.) That Sheldon Ropicky shall be current with all payments due on the civil fine and cost and attorney fees ordered in these proceedings, and he shall make the payments in the time and amounts required by the Commission's orders;
- c.) That Sheldon Ropicky shall comply with all provisions of the Real Estate License Law;
- d.) Except as provided in the following subparagraph 4.e. of the Final Order, if the Staff of the Commission has reason to believe that Mr. Ropicky has violated the License Law or any term or condition of the Commission's Orders in these proceedings, the Staff shall file and serve upon Mr. Ropicky a motion alleging the violations, and shall have the matter set for hearing before the Commission for determination of whether the withheld suspension should continue to be withheld, or whether the suspension should be imposed;
- e.) If Mr. Ropicky fails to complete the real estate courses ordered herein, or to pay the civil fine or costs and attorney fees as ordered herein, the Executive Director shall be authorized to cause the license to be suspended for the entire period originally ordered, automatically and without further process before the Commission.

Motion carried. A copy of the "Final Order" is attached hereto and made a part of these minutes.

**Case of Staff vs. James W. Powell (Ex-Parte).** In consideration of the facts and evidence presented, motion was made by Andy Enrico to accept without exception the Stipulation which had been agreed to by James W. Powell and that the "Final Order" for disciplinary actions against Mr. Powell be as follows:

- 1.) That James W. Powell shall be issued a formal reprimand.
- 2.) That James W. Powell pay a civil fine in the amount of Three Thousand Five Hundred Dollars (\$3,500.00), Two Thousand Dollars (\$2,000.00) to be paid by August 3, 2008. However, One Thousand Five Hundred Dollars (\$1,500.00) of the fine shall be withheld provided James W. Powell:
  - a. Complies with the terms of the Commission's Order and violates no other license Law.
  - b. Completes the course or courses described below in the time allotted.
  - c. Pays in full all fines and attorney's fees when due.

3.) That James W. Powell is required to successfully complete a Real Estate Finance course by January 3, 2009.

4.) That James W. Powell pay the cost and attorney's fees incurred in the investigation/prosecution of this matter in the amount of Three Hundred Dollars (\$300.00) by August 3, 2008.

5.) That in the event James W. Powell fails to make a payment as required by the order on its due date, or with fifteen (15) days after said due date, then all sums remaining unpaid shall at once become due and payable. Any failure to exercise said option shall not constitute a waiver of the right to exercise the same option at some other time.

6.) That the Commission shall be entitled, without further notice or action otherwise required by Idaho Code or IDAPA rules, to immediately suspend Respondent's license in the event the Respondent fails to timely comply with any term or condition of the Final Order. Notice of such action sent to the most current address provided by the Respondent to Staff shall be deemed sufficient. Any license suspension may be reinstated upon petition to the Commissioners after compliance of the Stipulation term or condition.

Motion carried. A copy of the "Final Order" is attached hereto and made a part of these minutes.

**Case of Staff vs. Nathan Wendt (Ex-Parte).** In consideration of the facts and evidence presented, motion was made by Andy Enrico to accept without exception the Stipulation which had been agreed to by Nathan Wendt and that the "Final Order" for disciplinary actions against Mr. Wendt be as follows:

1.) That Nathan Wendt pay a civil fine in the amount of Three Thousand Five Hundred Dollars (3,500.00) in seven (7) monthly payments of not less than Five Hundred Dollars (\$500.00) beginning August 28, 2008 and continuing each month thereafter, on or before the 28<sup>th</sup> day of the month until paid in full.

2.) That Nathan Wendt agrees to execute a Promissory Note in the form attached hereto as Exhibit "A" setting forth Mr. Wendt's payment obligations as provided in the Amended Stipulation. Further, in the event that Mr. Wendt fails to make a payment as required by the order on its due date, than all sums remaining unpaid shall at once become due and payable, Mr. Wendt consents to the filing of a legal action to enforce the remaining amounts due under the Amended Stipulation and Promissory Note, and Mr. Wendt agrees to stipulate to a judgment in such legal proceeding for all remaining amounts due the Idaho Real Estate Commission by Mr. Wendt. Any failure to exercise said option shall not constitute a waiver of the right to exercise the same option at some other time.

3.) That Nathan Wendt pay the cost and attorney's fees incurred in the investigation/prosecution of this matter in the amount of One Thousand Dollars (\$1,000.00) by July 28, 2008.

Motion carried. A copy of the "Final Order" is attached hereto and made a part of these minutes.

### **Special Considerations:**

**Executive Session:** In accordance with section 67-2345 (1)(d) and 9-340C(9), Idaho Code, a motion was made by Andy Enrico to adjourn to executive session to review special request licensure files submitted pursuant to Section 54-2012(1) and 54-2022(6), Idaho Code. Motion carried. Members reviewed exempt records submitted by petitioners in support of the requests for special consideration.

**Regular Session:** There being no further purpose for an executive session, a motion was made by Andy Enrico to adjourn the executive session. Motion carried.

### **Education Petition**

**Petition for Review #08-087 – Request for Special Consideration seeking Certification of Course Content as within the Topic Area Approved for Continuing Education Credit 54-2036:** Following discussion and review of the documents submitted, a motion was made by Pam Trees to deny the request. Motion carried.

**Petition for Review #08-090 – Request for Special Consideration seeking Waiver of Broker Prelicense Education Requirements 54-2022(6):** Following discussion and review of the documents submitted, motion was made by Pam Trees to deny the request. Motion carried.

**Executive Session:** In accordance with section 67-2345(1)(d) and 9-340C(9), Idaho Code, a motion was made by Pam Trees to adjourn to executive session to review special request licensure files submitted pursuant to Section 54-2012(1) and 54-2022(6), Idaho Code. Motion carried. Members reviewed exempt records submitted by petitioners in support of the requests for special consideration.

**Regular Session:** There being no further purpose for an executive session, a motion was made by Andy Enrico to adjourn the executive session. Motion carried.

**Special Consideration #08-015 Exemption For Review 54-2012(1)(f).** Following discussion and review of the documents submitted, motion was made by Pam Trees to deny request. Motion carried.

**Special Consideration #08-016 – Exemption For Review 54-2012(1)(f).** Following discussion and review of the documents submitted, motion was made by Kelly Fisher to approve request. Motion carried.

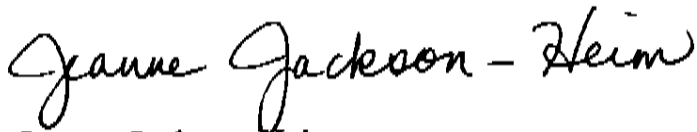
**Special Consideration #08-017 Request for Special Consideration to Waive Licensing Requirements under 54-2012(1).** Following discussion and review of the documents submitted, and upon a good cause shown by petitioner, motion was made by Kelly Fisher to waive, for a period not to exceed (6) six months, the exam and education requirements for a salesperson license, and to allow the petitioner to apply for and be issued a salesperson license upon submission of: fingerprints and determination of no disqualifying criminal history; completed application form; and licensing fees. Motion carried.

**Special Consideration #08-018 Waive Broker Experience 54-2012(2)(a).** Following discussion and review of the documents submitted, motion was made by Kelly Fisher to grant request provided petitioner be licensed as a limited broker. Motion carried.

**Special Consideration #08-019 Waive Broker Experience 54-2012(2)(a).** Following discussion and review of the documents submitted, motion was made by Pam Trees to deny request. Motion carried.

There being no further business, motion was made by Steve Kohntopp to adjourn the meeting at 3:39 p.m. Motion carried.

Respectfully Submitted,

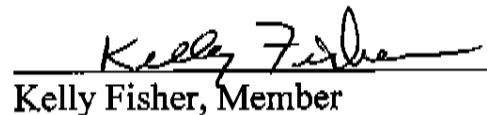
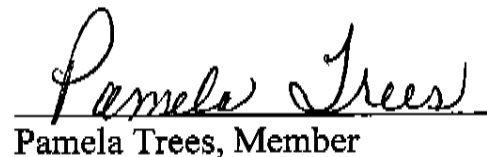


Jeanne Jackson-Heim  
Executive Director

JJH: tla

Attachments: Licenses Issued May 2008  
FY07-FY08 Analysis of Active & Inactive License Base  
Online License Reports  
Complaint Summary Report  
May 2008, Financial Reports  
Information and Technology Reports

**Minutes of the Idaho Real Estate Commission meeting in Boise, Idaho, on June 26, 2008, are hereby approved.**

  
Steve Kohntopp, Chair  
Kelly Fisher, Member  
Andy Enrico, Vice Chair  
Pamela Trees, Member

**402. APPROVED TOPICS FOR CONTINUING EDUCATION.**

The primary purpose of continuing education is to help assure that licensees possess the knowledge, skills, and competency necessary to function in the real estate business in a manner that protects and serves the public interest. The knowledge or skills taught in an elective course must enable licensees to better serve real estate consumers.

**01. Topics Approved by the Commission.** —Approved topic areas for continuing education, as provided for in Sections 54-2023 and 54-2036, Idaho Code, include the following, as they pertain to real estate brokerage practice and actual real estate knowledge: (3-20-04)

- a. Real estate ethics; (3-20-04)
- b. Legislative issues that influence real estate practice; (3-20-04)
- c. Real estate law; contract law; agency; real estate licensing law and administrative rules; (3-20-04)
- d. Fair housing; affirmative marketing; Americans with Disabilities Act; (3-20-04)
- e. Real estate financing, including mortgages and other financing techniques; (3-20-04)
- f. Real estate market measurement and evaluation; (3-20-04)
- g. Land use planning and zoning; land development; construction; energy conservation in building; (3-20-04)
- h. Real estate investment; (3-20-04)
- i. Accounting and taxation as applied to real property; (3-20-04)
- j. Real estate appraising; (3-20-04)
- k. Real estate marketing procedures ~~related specifically to actual real estate knowledge~~; (3-20-04)
- l. Real estate inspections; (3-20-04)
- m. Property management; (3-20-04)
- n. Timeshares, condominiums and cooperatives; (3-20-04)
- o. Real estate environmental issues and hazards, including lead-based paint, underground storage tanks, radon, etc., ~~and how they affect the practice of real estate~~; (3-20-04)
- p. Water rights; (3-20-04)
- q. Brokerage office management and supervision; (3-30-07)
- r. ~~Use of calculators or computer technology as applied to the practice of real estate~~; (3-30-07)
- s. ~~Use of technology as to the practice of real estate~~; (3-30-07)
- st. Licensee safety; (3-30-07)
- u. ~~Commercial real estate topics~~; (3-30-07)
- v. ~~Tenants in common~~; (3-30-07)
- w. ~~Mobile/manufactured homes~~; (3-30-07)
- x. ~~Green market~~; (3-30-07)
- y. ~~Senior market~~; (3-30-07)
- tz. Negotiation skills; (3-30-07)
- aa. ~~Communication skills~~; (3-30-07)
- bb. ~~Resort and recreation~~; (3-30-07)
- cc. ~~Farm and ranch~~; (3-30-07)
- dd. ~~Timber and mining~~; (3-30-07)
- ee. ~~Professionalism; and~~ (3-30-07)
- ff. ~~Business Success~~; (3-30-07)

**02. Other Topics.** Upon written request, the Commission may also approve any other topic that directly relates to real estate brokerage practice and that directly contributes to the accomplishment of the primary purpose of continuing education, ~~which is to help assure that licensees possess the knowledge, skills, and competency necessary to function in the real estate business in a manner that protects and serves the public interest. The knowledge or skills taught in an elective course must enable licensees to better serve real estate consumers.~~ (3-20-04)

**03. Topics Not Eligible for Continuing Education Credits.** The following activities shall not be eligible for approval for compliance with the continuing education requirement: (3-20-04)

- a. Those which are specifically exam preparation in nature; (3-20-04)
- b. ~~Those which are held in conjunction with a brokerage firm's sales promotion or sales meetings; or~~ (3-20-04)
- c. ~~Those which are held by trade organizations for licensee's orientation.~~ (3-20-04)
- b. Real estate topics not directly related to real estate brokerage practice.